IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 475 OF 2006
IN
Notice of Motion No. 3480 of 2004
IN
SUIT NO. 3443 OF 2004

Mohan Rocky Spring Water
Breweries Ltd.. .. Appellant.

V/s.

1. Shaw Wallace & Company Ltd., & Anr. .. Respondents.

Ms.Sucherita Patrawala i/by S.J.Khera for the Appellant.

Mr.H.W.Kane with Mr.Rahul Kadam for the Respondents.

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATED : 22nd SEPTEMBER, 2006.

P.C.:

. The counsel for the Appellant at the outset submitted that talks of settlement between the parties have substantially progressed and there is every likelihood of the matter being settled between the parties if some time is granted.

2. The counsel for the Respondents submitted that insofar as the present Appeal is concerned, it has become infructuous and in case the dispute between the parties is finally settled, the Consent Terms shall be filed in the Suit. He further submitted that in this

Appeal, the order under challenge is ad-interim order dated 17th of November, 2004. We were also informed by him that the impugned order, which was operating during the pendency of the Notice of Motion, has merged in view of the disposal of the Notice of Motion itself in the order dated 5th of April, 2006.

3. The counsel for the Respondents handed in the certified copy of the order dated 5th April, 2006, disposing of the Notice of Motion. Paragraph 15 of the said order reads thus :-

> "15. For all these reasons, therefore, in my opinion, ad-interim order which has been granted in favour of the Plaintiffs and which is presently operating deserves to be confirmed. It is accordingly, so ordered. Notice of Motion disposed of.

4. Obviously, the Appeal does not survive as the ad-interim order has merged in the order dated 5th of April, 2006. If the Appellant has any grievance, it has to challenge the order dated 5th of April, 2006.

5. Appeal is dismissed as infructuous.

(R.M.LODHA,J)

(S.A.BOBDE,J)

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